

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE COMMISSIONER OF HUMAN SERVICES

In the Matter of the of the Temporary
Immediate Suspension of the Family
Child Care License of Michelle Vining to
Provide Family Child Care.

**FINDINGS OF FACT,
CONCLUSIONS, AND
RECOMMENDATION**

This matter came on for Hearing before Administrative Law Judge Steve M. Mihalchick on September 17, 2003, at the Anoka County Government Center, Anoka, Minnesota. The hearing record closed on September 25, 2003, upon the receipt of the final post-hearing brief.

M. Katherine Doty, Assistant Anoka County Attorney, Anoka County Government Center, 2100 Third Ave, Anoka, MN 55303-2265, appeared for the Department of Human Services (the Department) and the Human Services Division of the Anoka County Community Social Services and Mental Health Department (the County). Patrick J. Foley, Attorney, 2353 Rice St., Roseville, MN 55113, appeared on behalf of Licensee Michelle Vining.

NOTICE

This report is a recommendation, **not** a final decision. The Commissioner of Human Services will make the final decision after a review of the record and may adopt, reject or modify these Findings of Fact, Conclusions, and Recommendations. The parties have ten days to file exceptions to an Administrative Law Judge's report.^[1] Also, in temporary immediate suspension cases, the Commissioner's final order must be issued within ten working days from receipt of the Administrative Law Judge's report.^[2] Because of these requirements, the parties should file any exceptions as soon as possible. The Commissioner will provide a notice to the parties of the address for filing exceptions and the date on which the record closes. Under Minn. Stat. § 14.62, subd. 2, if the Commissioner fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision. Any questions regarding the procedure should be directed to Kevin Goodno, Commissioner, Department of Human Services, 444 Lafayette Road, St. Paul, MN 55155.

Under Minn. Stat. § 14.62, subd. 1, the Commissioner of Human Services is required to serve the final decision upon each party and the Administrative Law Judge by first class mail.

STATEMENT OF ISSUE

Is there reasonable cause to believe there is an imminent risk of harm to the health, safety or rights of children in the license holder's care and, thus, should the temporary immediate suspension of the family child care license remain in effect?

The Administrative Law Judge concludes that there is no longer an imminent risk of harm to children in Licensee's care and that the temporary immediate suspension should be terminated.

Based upon the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. Licensee is licensed to provide family child care in her home at 7181 Shad Ave, Centerville, Minnesota, which is in Anoka County. She is a single mother and lives in her home with her 13 year old son and six and seven year old daughter. The house is a split entry with a living room, dining area, kitchen, bath and bedrooms on the upper level. On the lower level are a family room, the son's bedroom, and other rooms.^[3]

2. Licensee has been licensed since 2000. Previously she had done day care for a number of families without a license. She began the license application process in 1999 after she was informed that she needed a license. On June 22, 1999, the County recommended that her application be denied based, in part, upon supervision of children issues.^[4] On April 11, 2000, she was issued a conditional license.^[5] She complied with the conditions of the license and was subsequently issued a standard license.^[6]

3. Late in June 2003, Licensee started providing child care for the sons of Corrin Jaynes, who were six and two at the time. The youngest boy's date of birth is October 29, 2000. Licensee normally starts her day care at 6:30 a.m., but agreed to take Jaynes' boys at 5:30 a.m. because she had done child care for Jaynes previously when the youngest was six months, and did so as a favor to Jaynes as another single mother. They developed a routine where Jaynes would bring the children in, put them on a couch in the living room where they would go back to sleep and then leave for work. After Jaynes left, Licensee would generally sit down in a chair near the couch and watch TV and often sleep until 6:30.^[7]

4. Jaynes describes her two year old son as "very overactive," "very, very smart," very "willful," and able to get wherever he wants to go. She described him as her "escape artist," who is able to get over or open gates, doors, and locks when he wants to go somewhere. However, she had not "really" told Licensee about this behavior.^[8]

5. On July 9, 2003, things started as usual. Jaynes arrived between 5:20 and 5:30 a.m. and was greeted at the door by Licensee. She brought the boys in, put

them still sleeping on the couch, kissed them goodbye, and left. As she did, Licensee was in the chair watching news on TV.^[9]

6. After Jaynes left that morning, somewhere around 5:30 a.m., Licensee feel asleep in the chair.^[10] Sometime during the next few minutes, the two year old boy got out of the house without Licensee noticing and walked down the long block along Shad Avenue to Main Street. Between 5:30 and 5:45 a.m. he was seen by Robert Schaefer and his 15 year old son, who were driving by on Main Street going to buy bait to go fishing that morning. They saw the boy on the grass next to the sidewalk at the corner of Main Street and Shad Avenue in "little footie pajamas," just standing there "sucking his hand." The boy is large for his age and Schaefer thought he was three or four years old.^[11]

7. Concerned about the traffic on Main Street, Schaefer pulled over to check on the boy. He saw no one else around. He and his son walked over to the boy. Schaefer greeted the boy and asked his name. He got no response. Schaefer talked with him some more and the boy let him take him by the hand and they all started walking over to a nearby Curves location that was open. Eventually the boy let Schaefer carry him. At Curves, Schaefer had someone call the police.^[12]

8. At 5:55 a.m., Officer John Krueger of the Central Lakes Police Department, which serves Centerville, Circle Pines, and Lexington, received the possible lost child call. He was three miles away and arrived at the Curves location within minutes. He met Schaefer there who was still holding the boy and who described what he had observed. They decided to try to find where the boy had come from by driving up Shad Avenue. The officer attempted to take the boy to put him in his squad car, but the boy screamed and clung to Schaefer. So Schaefer got in the squad with the boy on his lap and Schaefer's son got in as well.^[13]

9. They drove up Shad Avenue slowly looking at the houses. When they got to Licensee's home, they noticed that the garage door was open, there was a car in the garage, several toys were scattered around, and the front door was open with just the storm door closed. They stopped and Officer Krueger went to the door and knocked. There was no response. He then called dispatch to telephone the home. They did so, but also got no response. Nonetheless, it looked to Officer Krueger like someone was there, so he kept knocking. Finally, Licensee's teenage son came up from downstairs and answered the door looking like he had just awoken. Officer Krueger asked the teenager whether he had a little brother who was missing. The teenager appeared confused by the question, so Officer Schaefer asked him to get his mother. At about that time, Schaefer got out of the squad car and carried the young boy up to the house.^[14]

10. Licensee's son went to the upper level and woke up his mother who was sleeping in the chair and told her there was an officer at the door asking if he had a brother. She went down to the door. Officer Krueger asked her if her son was missing and she said, "No." Then she saw the boy in Schaefer's arms and with some shock and surprise took him from Schaefer. The boy went to her quickly and gladly. Licensee told

Officer Krueger that the child did belong there, that his mother drops him off in the morning and then goes to work, and that she watches him after she gets up at 6:30 a.m. Because the boy appeared to be comfortable in the surroundings and appeared to be where he belonged, Officer Krueger left the boy with Licensee and cleared the scene at about 6:15 a.m. Schaefer estimated that it was approximately 15 to 20 minutes from the time he first saw the boy on the street until Licensee had come to the door.^[15]

11. Licensee and Jaynes discussed the incident. Jaynes was not upset because she felt that it could have very easily happened to her, as it had in the past. Her son could have opened the locked door without a problem and run off “looking for his dad.” They talked about the boy’s behavior and changes Licensee would make to become accustomed to waking up at 5:30 a.m. and to be sure she did not fall back to sleep. Thereafter, if she felt sleepy, Licensee got up and did something, like cleaning, to keep herself awake. Jaynes was satisfied with the changes and continued to take her boys to Licensee without further incident.^[16]

12. On July 15, 2003, the police reported the lost child incident to the County’s Child Protection unit, as they are required to do. Child Protection Worker Jodi Nelson contacted Vonne Clausen, Licensee’s Licensing Worker, and arranged to conduct a joint visit to Licensee’s home. They did so on August 5, 2003.^[17]

13. When Nelson and Clausen arrived at Licensee’s home, she was meeting with a pool salesman. Nelson explained that they were there to investigate the July 9 incident. Licensee asked if they could come back because she was meeting with the salesman and Nelson told her they could not. She invited them up to the living room area while she went to deal with the salesman in the kitchen area. He left a very few minutes later. During all this time, Licensee had been holding one child while five others, including Licensee’s two daughters, were watching TV on the lower level in the family room at the bottom of the stairs, where they could be heard by Licensee.^[18]

14. While they were waiting for Licensee, Nelson and Clausen could hear crying from the family room, as could Licensee. When Licensee did not respond to the crying within a minute or two, Nelson and Clausen decided to check on the children. They went downstairs and found two of the children crying quite loudly. Licensee then came down to the family room. When asked who was watching the children, Licensee said that her son was. But he was in his room next to family room and had not come out.^[19] The children had been crying from at least the time Nelson and Clausen knocked, because, according to Licensee, the knocking caused her two dogs to bark (the dogs were upstairs gated away from the children), which caused the children to start crying.^[20]

15. Nelson asked Licensee about the July 9 incident. Licensee explained that she was sitting in the chair by the sleeping boys and must have dozed off. Nelson thought Licensee appeared “concerned” about the incident, but “confused” about how it could be considered “neglect” when it had been an accident. Clausen thought it demonstrated that Licensee did not take the matter seriously.^[21] Licensee raised the

question because she had heard of maltreatment, neglect, and abuse investigations, but had not thought her unintentional failure rose to that level.^[22]

16. As is her normal practice whenever she observes violations, and regardless of whether any sanctions may also be considered, Clausen issued a Correction Order to Licensee based upon the violations she noted that day. She cited two instances of failure to supervise: The August 5 situation when she was upstairs while the children were downstairs and the July 9 incident when the two-year-old got out of the house while she was sleeping. She also cited seven other violations regarding records, mesh portacribs, improper barrier for stairs, leaking sink and wet, smelly floor, untested pet birds, boards in play area with exposed nails, pool with rainwater and dirt, and dog feces in play area. Clausen delivered the correction order to Licensee on August 7, 2003. She took no other action at the time and awaited the determination of the Child Protection investigation.^[23]

17. Upon the conclusion of an investigation, a Child Protection Worker must determine whether “maltreatment” has occurred and whether child protective services are needed. “Maltreatment” means “physical abuse”, “neglect”, “sexual abuse”, “mental injury” or “maltreatment in a facility” such as a day care facility. A determination that child protective services are needed must be based upon conditions sufficient to cause a Child Protection Worker to conclude that a child is at significant risk of maltreatment if protective intervention is not provided and that the individuals responsible for the child’s care have not taken or are not likely to take actions to protect the child from maltreatment or risk of maltreatment.^[24]

18. On August 8, 2003, the Child Protection Worker notified the Licensing Worker that she had determined that maltreatment in the form of neglect had occurred during the July 9, 2003, incident. She also determined that child protective services were not needed at the time because the mother was able to handle the situation and because Licensing would deal with any deficiencies of the child care provider. A written determination of neglect was issued on or about August 11, 2003.^[25]

19. Clausen decided to recommend immediate suspension based upon:
- a. The determination of neglect.
 - b. The past history and number of violations related to supervision.
 - c. Licensee’s nonchalant reaction and questioning of the seriousness of the incident.
 - d. Licensee’s pattern of uncorrected correction orders.
 - e. Clausen’s “overall feeling” from working with Licensee that Licensee had not shown much regard for the licensing rules.^[26]

20. On August 11, 2003, Clausen and her supervisor Nancy Sackett submitted a recommendation to the Department that Licensee’s family child care license

be immediately suspended. The letter that cited the previous County recommendation to deny licensure, a previous unsubstantiated complaint of inadequate supervision of children playing outside, the July 9, 2003, incident of the two-year-old who got out while Licensee was sleeping and Licensee not appreciating the seriousness of the matter, the August 5, 2003, incident of the children crying in the basement, the August 7, 2003, correction order with supervision and safety issues, and the neglect determination. It also stated that the County believed that, due to the severity of the lost child incident, children's health and safety were in imminent danger and the immediate suspension of Licensee's license was required in order to protect children. The letter was not provided to Licensee.^[27]

21. On August 12, 2003, the Department issued the Order of Temporary Immediate Suspension to Licensee and faxed it to the Licensing Worker to be served personally upon Licensee, which she did that day.^[28] The Order of Temporary Immediate Suspension stated that, based upon the County's recommendation, the Department was immediately suspending Licensee's license effective 12:01 a.m. on August 13, 2003, quoted Minn. Stats § 245A.07, subd. 2, and then stated:

Anoka county Human Services received a report regarding your child care home. This report contained an allegation of maltreatment involving a child in your care. Because this incident remains under investigation, it is confidential data under the Minnesota Government Data Practices Act, and cannot be released in this letter.

Due to the serious nature of the violation under investigation, Anoka County Human Services cannot ensure the safety of persons served in your program. The Commissioner of the Department of Human Services finds that the health, safety, and rights of children in your care are in imminent danger. Therefore, the Commissioner is immediately suspending your license to provide Family Child Care.

You are also prohibited from operating as a legally unlicensed child care provider unless and until such time as this order is reversed upon appeal.^[29]

22. When Clausen served the Order of Temporary Immediate Suspension, she also asked Licensee for the name of the children in care, so that she could complete and hand the required notice to the parents as they picked up their children. Licensee provided the names of the six children present at the time. She did not provide the names of any other children then or at any other time.^[30]

23. On or before August 15, 2003, Licensee appealed the temporary immediate suspension.^[31] A blank form Notice of and Order for Hearing was issued by the Department on August 15, 2003. On August 22, 2003, the County requested appointment of an Administrative Law Judge. The completed Notice of and Order for Hearing was served upon Licensee by U.S. mail by the County on September 3, 2003.

24. The Notice of and Order for Hearing stated that the issues to be considered “are set forth in the order relating to the above-referenced action, attached as Exhibit A, and incorporated herein by reference.” However, Exhibit A was not “the order relating to the above-referenced action.” Instead, it was a document purportedly stating the reasons for the temporary immediate suspension. It described the lost child incident of July 9, 2003. It also cited as a reason the view of the licensing staff that Licensee expressed no concern over the incident and had said that she and the child’s mother had discussed the matter “and the incident was over.” As the final reason, Exhibit A noted that Child Protection had determined that “neglect/inadequate supervision” had occurred July 9, 2003.^[32]

25. At the hearing, counsel for Licensee objected to the introduction of any evidence not related to the issues set forth in Exhibit A to the Notice of and Order for Hearing, namely, the incident of July 9, 2003. Over objection, the County was allowed to introduce evidence of prior allegations regarding failure to supervise and subsequent events reflecting on compliance with program statutes, rules, and orders.

26. When she was served with the Order of Temporary Immediate Suspension on August 12, 2003, Licensee did not provide the names of all the children she was providing care for at the time, but who were not present that particular afternoon. On her food program claim for August, 2003, Licensee claimed reimbursement for meals and snacks every week day for four children she had not listed for Clausen. She also claimed food reimbursement for all the eligible children for August 13, 14, and 15, all after her license had been immediately suspended.^[33] Licensee attached to her brief a letter from a couple praising the high quality of care Licensee provided to their children and complaining that the County had not notified them of the immediate suspension. Licensee had not provided their children’s names to Clausen.

27. Licensee has continued to provide some child care since August 12, 2003. She has done so under the guise of “helping out” the day care parents who had become her friends and has told some parents that she could do so as long as she did not take money. She has taken some payments for providing such help.^[34]

CONCLUSIONS OF LAW

1. The Commissioner of Human Services and the Administrative Law Judge have jurisdiction in this matter pursuant to Minn. Stat. §§ 245A.07, subd. 2a, and 14.50.

2. All relevant substantive and procedural requirements of law or rule have been fulfilled. Defects in the Notice of and Order for Hearing as to the issues to be considered were significant, but cured by the discovery provided to Licensee and offers to provide additional time to prepare and respond.

3. At a hearing regarding a licensing sanction under Minn. Stat. § 245A.07, the Commissioner may demonstrate reasonable cause for action taken by submitting

statements, reports, or affidavits to substantiate the allegations that the license holder failed to comply fully with applicable law or rule. Minn. Stat. § 245A.08, subd. 3.

4. By statute, the scope of the hearing shall be limited solely to the issue of whether the temporary immediate suspension should remain in effect pending the commissioner's final order under § 245A.08 regarding a licensing sanction issued under subdivision 3 following the immediate suspension. The burden of proof in expedited hearings is limited to the commissioner's demonstration that reasonable cause exists to believe that the license holder's actions or failure to comply with applicable law or rule poses an imminent risk of harm to the health, safety, or rights of persons served by the program.^[35]

5. The Commissioner demonstrated reasonable cause for the temporary immediate suspension; however, the Commissioner has failed to demonstrate that the temporary immediate suspension should remain in effect pending a final order because there is a risk of imminent harm to the health or safety of children served by the license holder.

6. Under Minn. R. 9502.0365, subp. 5, “[a] licensed provider must be the primary provider of care in the residence. Children in care must be supervised by a caregiver.”

7. Supervision of an infant, toddler, or preschooler means that the caregiver is within sight or hearing at all times and is capable of intervening and protecting the health and safety of the child. Supervision of a school age child requires that the caregiver be available to protect the health and safety of the child.^[36]

8. Licensee’s failure to remain awake while providing child care the morning of July 9, 2003, was a violation of Minn. R. 9502.0365, subp. 5, requiring children in care to be supervised by a caregiver because she was not capable during that time of intervening and protecting the children.

9. Reasonable cause does not exist to believe that Licensee’s violation of the supervision rules continues to pose an immediate risk of harm to the health, safety, and rights of the children served by her day care. Licensee no longer sleeps in the morning after children are dropped off and has taken reasonable steps to avoid inadvertently falling asleep. There is no other substantive evidence of any immediate risk of harm to the health, safety, and rights of the children served by her day care.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RESPECTFULLY RECOMMENDED that the Commissioner of Human Services rescind the immediate suspension of Michelle Vining’s family child care license.

Dated: October 9, 2003.

s/Steve M. Mihalchick
STEVE M. MIHALCHICK
Administrative Law Judge

Reported: Tape recorded (3 tapes). No transcript prepared.

MEMORANDUM

The Notice of and Order for Hearing did not adequately describe all the issues to be considered at the hearing. Unlike typical orders of revocation and orders of suspension, the Order of Temporary Immediate Suspension in this matter had no real description of the basis for the order. It restated statutory language and had only vague references to an ongoing investigation that was no longer ongoing. It stated it was based upon the County's recommendation, but did not attach or restate that recommendation. Exhibit A to the Notice of Hearing described only the County's primary reason for the immediate suspension, but not all of them.

These significant notice defects have been cured by the following events. Counsel for Licensee did not advise counsel for the Department that he had been retained until three or four business days before the hearing. When counsel for the Department offered to seek a continuation of the hearing, counsel for Licensee declined. Counsel for Licensee then requested copies of exhibits and other documents. Those were provided as soon as possible; some the day before the hearing and some the morning of the hearing. Those documents included the recommendation for immediate suspension. When counsel for Licensee objected to certain evidence on the basis of late disclosure, the Administrative Law Judge suggested that Licensee might be allowed additional time to respond. Counsel for Licensee declined that opportunity.

The Department has the burden of showing that there is reasonable cause to believe that the health, safety, or rights of the children in care are in imminent danger. This is a modest standard, intended to ensure that vulnerable children are protected until there can be a full hearing and final determination.

The County, acting for the Department, must present reliable oral testimony or reliable documentary evidence in support of a finding of reasonable cause. Reasonable cause to suspend a license is not specifically defined in the statute, but is analogous to the probable cause standard in a criminal proceeding.^[37] In both cases the state is entitled to rely on hearsay evidence linking the license holder (or someone who resides with her) to an act that puts children in care at risk of imminent harm. "Imminent harm" is not defined in the statute or rules, but the Commissioner has defined "imminent danger" to mean that a child is threatened with immediate or present abuse or neglect that is life-threatening or likely to result in abandonment, sexual abuse, or serious physical injury.^[38] While this definition of imminent danger is not binding, it is

instructive. At a minimum, "imminent harm" means harm that is impending or about to occur.^[39]

In this case the Department based its decision to immediately suspend the license on the lost child incident and the Licensing Worker's "overall feeling" that Licensee's response was nonchalant and not likely to correct the problem in view of her history and lack of honest compliance with rules and orders before and after that incident.

In essence, the County's position is based on its lack of trust that Licensee is telling the truth about making changes to avoid falling asleep after Jaynes drops off her boys at 5:30 each morning. It is clear that Licensee has been less than completely honest in her testimony and dealings with the County. Nonetheless, her testimony that she no longer sleeps and has taken steps to insure that she does not fall asleep in the morning after the Jaynes boys were dropped off is very believable. The boys' mother believed it and continued to take her boys to Licensee. Clausen's observation that Licensee was "nonchalant" when asked about the incident is different from Nelson's observation that she was "concerned." It certainly should not be "surprising" that Licensee did not understand how her failure could be called "neglect." Minn. Stat. § 626.556 is a complex and convoluted statute that is difficult to understand. It defines "neglect" as a form of "maltreatment," which is inconsistent with the common meanings of those terms.

The other evidence introduced by the County demonstrates that Licensee may have violated rules and statutes, and may well justify revocation or other license sanctions, but none of it demonstrates an imminent risk of harm to the children. The fact that Licensee did not respond promptly to the crying children downstairs did not demonstrate a lack of supervision. Licensee was aware they were crying. It might demonstrate a failure to provide necessary care, but that issue was not addressed. The fact that she provided illegal child care before she was licensed was corrected. The apparent fact that she has continued to provide some child care after the suspension indicates nothing about imminent harm. The neglect determination may provide a basis for other licensing sanctions, but it was based on exactly the same facts as the temporary immediate suspension, so provides no additional evidence of any risk of imminent harm.

The evidence in this record is not sufficient to support a finding that Licensee's failures or actions pose an imminent risk of harm to children at this time. She has acted to correct the situation that allowed the two-year-old to get out of the house unnoticed on July 9, 2003, and there is no other indicator of any risk of imminent danger.

S.M.M.

^[1] Minn. Stat. § 14.61.

- [\[2\]](#) Minn. Stat. § 245A.07, subd. 2a(b).
- [\[3\]](#) Testimony of Michelle Vining.
- [\[4\]](#) Ex. 5.
- [\[5\]](#) Ex. 6.
- [\[6\]](#) Testimony of Vonne Clausen.
- [\[7\]](#) Testimony of Corrin Jaynes, Michelle Vining, and Officer Krueger.
- [\[8\]](#) Testimony of Corrin Jaynes.
- [\[9\]](#) Testimony of Corrin Jaynes.
- [\[10\]](#) Testimony of Michelle Vining.
- [\[11\]](#) Testimony of Robert Schaefer.
- [\[12\]](#) Testimony of Robert Schaefer.
- [\[13\]](#) Testimony of Officer Krueger and Robert Schaefer.
- [\[14\]](#) Testimony of Officer Krueger and Robert Schaefer.
- [\[15\]](#) Testimony of Robert Schaefer, Officer Krueger, and Michelle Vining.
- [\[16\]](#) Testimony of Corrin Jaynes and Michelle Vining.
- [\[17\]](#) Testimony of Jodi Nelson and Vonne Clausen.
- [\[18\]](#) Testimony of Jodi Nelson, Vonne Clausen, and Michelle Vining.
- [\[19\]](#) Testimony of Jodi Nelson and Vonne Clausen.
- [\[20\]](#) Testimony of Michelle Vining.
- [\[21\]](#) Testimony of Jodi Nelson and Vonne Clausen.
- [\[22\]](#) Testimony of Michelle Vining.
- [\[23\]](#) Ex. 10; Testimony of Vonne Clausen.
- [\[24\]](#) Minn. Stat. § 626.556, subd. 10e.
- [\[25\]](#) Ex. 7; Testimony of Jodi Nelson and Vonne Clausen. Licensee requested reconsideration of the neglect determination. That reconsideration was conducted by the County, which upheld the finding of neglect in a letter of September 3, 2003. Ex. 8.
- [\[26\]](#) Testimony of Vonne Clausen.
- [\[27\]](#) Ex. 7.
- [\[28\]](#) Testimony of Vonne Clausen.
- [\[29\]](#) Ex. 1.
- [\[30\]](#) Testimony of Nancy Sackett.
- [\[31\]](#) Ex. 2.
- [\[32\]](#) Ex. 3.
- [\[33\]](#) Ex. 9.
- [\[34\]](#) Testimony of Nancy Sackett and Michelle Vining.
- [\[35\]](#) Minn. Stat. § 245A.07, subd. 2a.
- [\[36\]](#) Minn. R. 9502.0315, subp. 29a.
- [\[37\]](#) See *State v. Florence*, 306 Minn. 442, 239 N.W.2d 892, 902 (1976).
- [\[38\]](#) Minn. R. 9543.1010, subp. 8.
- [\[39\]](#) See *American Heritage College Dictionary* (3d ed.).